APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,737	12/21/2000	Derek Barrett	EMC-00-212	4612

24227	7590	06/20/2006

EMC CORPORATION
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EXAMINER
FRANCIS, MARK P

ART UNIT	PAPER NUMBER
2193	

DATE MAILED: 06/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>05 May 2006</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 8-11* is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, and 8-11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All   b)☐ Some *   c)☐ None of:

         1.☐ Certified copies of the priority documents have been received.

         2.☐ Certified copies of the priority documents have been received in Application No. _____.

         3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
     Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 05, 2006 has been entered.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

3.   A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4.   Claims 1 and 9-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Curtis. (U.S. Pat. 7,000,222)

Independent claims

Regarding claim 1, Curtis discloses a system for packaging applications that operates on an operating system, the system operable on a computer system,(Col 4:1-35, "...The computer system...") comprising;

Means for determining the operating system on which the packaging applications will

operate;(Col 7:50-67, "...determines the current operating system platform...")

Means for providing at least one parameter corresponding to at least one element used

by native utilities on the determined operating system;(Col 8: 1-35, "...The native

operating system command to retrieve environment variables...") and

A process for accessing the native utilities of the determined operating system based on

the at least one parameter,(Col 8:52-67, "...by executing a separate process...")

wherein the at least one parameter identifies the location of the application prior to the

application being packaged,(Col 9:5-20, "...the location of temporary files...") identifies

where the application is to be placed after it has been packaged, identifies a name for

the application,(Col 3:14-30, "...from a set of native operating system commands for

different types of operating systems...") identifies an identifier used by an installation

utility in order to identify the application for use by the installation utility,(Col 5:1-30, "...J

install contains methods that enable...") specifies an identifier unique to the determined

operating system(Col 3:1-30,"...An operating system command...") and identifies the

particular version of the application that is to be packaged.(Col 6:35-60, "...version and

to batch files...a previous version is recovered when a latest version is uninstalled...")

Regarding claim 11, Curtis discloses a method for building software that operates on at

least one operating system(Col 4:1-35, "...The computer system...") comprising the

steps of:

determining the operating system on which the software will operate;(Col 7:50-67,

"...determines the current operating system platform...")

providing the location of the files and directories in a server which comprise

the software; (Col 9:5-20, "...the location of temporary files...")

providing a location on the sever wherein the location is the place in which the

files and directories will be placed, ,(Col 9:5-20, "...the location of temporary files...")

utilizing a set of programs unique to the determined operating system in order to create

a software package capable of being installed on installation media.(Col 6:35-60,

"...version and to batch files...a previous version is recovered when a latest version is

uninstalled...")

 wherein at least one unique identifier of the software and components of the software

are provided to the set of programs. (Col 8:52-67, "...by executing a separate

process...")

Dependent claims

With respect to claim 9, the rejection of claim 1 is incorporated and further, Curtis

discloses wherein the at least one parameter is inputted to the process by a graphical

user interface. (Col 5:5-30, "...The GUI panels all extend a class calling a wizard...")

With respect to claim 10, the rejection of claim 1 is incorporated and further, Curtis

discloses a plurality of computers connected to each other by a network,(Col 3:55-67,

"...computer system,...") wherein the process resides on at least one of the computers

and said process establishes a communication with a second process residing on

another one of the at least one of the computers to enable the first process to be used

to allow the second process to create a software package utilizing the operating system

native to the computer containing the second process. (Col 8:52-67, "...by executing a

separate process...")

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

6.   Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Curtis.

(U.S. Pat. 7,000,222) in view of Fisher (6,038,399)

The rejection of claim 1 is incorporated and further,

Curtis does not show wherein the at least one parameter is inputted to the process by a command line.

Fisher shows wherein the at least one parameter is inputted to the process by a command line(Col 17, lines 38-53, "...The command line parameters...") in an analogous system for the purpose of providing the ability to install software onto both raw hard drives and assembled computers on the same network. (Col 4, lines 54-58)

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to include command line parameters to Cutis' invention.

The modification would have been obvious because one of ordinary skill in the art would have been motivated to provide the ability to install software onto both raw hard drives and assembled computers on the same network. (Col 4, lines 54-58)

Response to Arguments

7.   Applicant's arguments with respect to claims 1, and 8-11 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

9.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Mark P. Francis whose telephone number is (571)272-

7956. The examiner can normally be reached on Mon-Fri 8:00-4:30.

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Kakali Chaki can be reached on (571)272-3719. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

        Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.   •

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